

**LAWS AND RULES REVIEW COMMITTEE**  
Professional and Vocational Licensing Division  
Department of Commerce and Consumer Affairs  
State of Hawaii

**MINUTES OF MEETING**

The agenda for this meeting was filed with the Office of the Lieutenant Governor, as required by Section 92-7(b), Hawaii Revised Statutes.

Date: Wednesday, September 13, 2000

Time: 9:00 a.m.

Place: Kapuaiwa Room  
HRH Princess Victoria Kamamalu Building  
1010 Richards Street, Second Floor  
Honolulu, Hawaii

Present: Alfredo Evangelista, Chair  
Charles Aki, Member  
Patricia Choi, Member  
Mitchell Imanaka, Member  
Nora Nomura, Member  
John Ohama, Member

Calvin Kimura, Supervising Executive Officer  
Pamela Garrison, Senior Real Estate Specialist  
Naomi Cole, Real Estate Specialist  
Russell Wong, Real Estate Specialist  
Cynthia Yee, Senior Condominium Specialist  
Lorene Arata, Condominium Specialist  
Shari Wong, Deputy Attorney General  
Irene Kotaka, Secretary

Merrily Leong, Hawaii Association of REALTORS  
Eric Abe, Hawaii Association of REALTORS

Excused: Michael Ching, Member  
Casey Choi, Member  
Iris Okawa, Vice Chair

Call to Order: The Chair called the meeting to order at 9:03 a.m., at which time quorum was established.

Chair's Report: No Chair's report was presented. The Chair thanked everyone for being present at the meeting.

SEO's Report: **Announcements, Introduction, Correspondence, Additional Distribution**

Noe Noe Tom has been appointed as the Deputy Director for the Department of Commerce and Consumer Affairs. Jan Yamane has been appointed Acting Licensing Administrator.

**Minutes of Previous Meetings**

Upon a motion by Commissioner Ohama, seconded by Commissioner Aki, it was voted on and unanimously carried to accept the minutes of the August 9, 2000 Laws and Rules Review Committee Meeting as circulated.

Program of Work, FY01:

**Real Estate Recovery Fund – Hawaii Bar Journal, July 2000**

A copy of an article entitled, "Ethics & Issues – Informal Admonitions Imposed in 1999", was distributed to the Commissioners for their information. An informal admonition was issued to an attorney who failed to properly notify the Commission, precluding a client from recovering from the Real Estate Recovery Fund.

**Rule Making, Chapter 99, Hawaii Administrative Rules, Real Estate Brokers and Salespersons and SWAT**

A copy of excerpts from the Office of the Lieutenant Governor's SWAT project report, Phase II, was distributed to the Commissioners for their information.

**Licensing Renewal – November 30, 2000 Application Filing Deadline**

A copy of the flyer publicizing the Commission's renewal workshops was distributed to the Commissioners for their information. The workshops are open to any real estate licensee. The Commission is also making arrangements to conduct renewal workshops with other real estate brokers or organizations.

In previous years, the renewal workshops have been held in conjunction with the Commission's Specialist of the Day program. This year the Commission will focusing on renewals and will not be offering the Specialist of the Day program on the neighbor islands.

It is anticipated that the renewal notices will be mailed out to licensees in mid-October.

The schedule for the renewal workshops is as follows:

Oahu – Kapuaiwa Room, Kamamalu Building, 1010 Richards Street, Second Floor, Honolulu

November 8, 2000	-	9 a.m. to 12 Noon
November 17, 2000	-	9 a.m. to 12 Noon

Hilo – Hawaii Island Board of REALTORS, 14 Waianuenue Avenue, Hilo

November 13, 2000	-	9 a.m. to 12 Noon
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Kauai – Kauai Board of REALTORS, 4359 Kukui Grove, Suite 103, Lihue

November 17, 2000	-	9 a.m. to 12 Noon
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Maui – Maui Board of REALTORS, Conference Room, 33 Lono Avenue, Suite 450, Kahului

November 20, 2000	-	9 a.m. to 12 Noon
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Kona – Kona Board of REALTORS, Pines Plaza, Suite 157, 75-240 Nani Kailua Drive, Kailua-Kona

November 27, 2000	-	9 a.m. to 12 Noon
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**Neighbor Island Outreach – Maui and Island of Hawaii**

It was recommended that the proposed Fall 2000 neighbor island outreach scheduled for Maui be postponed due to the non-availability of meeting rooms and that the Commission considers rescheduling the neighbor island outreach to January 2001 for the island of Maui.

### **Commissioner's Education Program**

Copies of the following were distributed to the Commissioners for their information:

1. OIP OpenLine, April to June 2000
2. OIP OpenLine, July to August 2000
3. The High Road, July 2000

### Special Issues:

#### **Goodwin, Procter & Hoar LLP Request for Informal Opinion**

Real Estate Specialist Wong stated that the request from Goodwin, Procter & Hoar LLP is an example of the types of issues the Commission will be receiving more of. A Hawaii real estate broker can pay a Commission to an out-of-state broker to the extent that the negotiations do not take place in Hawaii.

Commissioner P. Choi stated that the National Association of REALTORS is attempting to address this issue on a national level and is looking into the paying of commissions to residents of another country.

Commissioner Imanaka asked if staff had prepared a response. Staff did not think that there would be a problem with the disclosure of the payment of the referral. However, other laws, outside of the real estate licensing laws, may apply in the situation as stated.

When asked about past interpretations, REB staff informed the Commissioners that the Commission has interpreted the law to include explaining commission rates as a disclosure requirement.

The Chair read the definition of a real estate broker. Real Estate Specialist Wong stated that developing laws involving advertising on the internet is a jurisdictional issue. Laws and interpretations vary from State to State and within the judicial system. If advertising is placed on the webpage, there is no jurisdiction. If they were soliciting from someone from that State, it would bring you under that State's jurisdiction.

Real Estate Specialist Wong stated that the decision is a policy issue, which must be made by the Commission.

The SEO stated that the Commission's position was that the existing advertising rules are sufficient and would apply without making any new rules. Upon receipt of information, staff has presented information on what is happening in other states. Commissioner Okawa was asked to develop the compilation.

Commissioner Imanaka stated that from a policy standpoint, it is wide open.

It is the Commission's belief that the Commission should address this issue at some point in time. The National Association of REALTORS and the Association of Real Estate License Law Officials are currently discussing this issue. It was suggested that those attending the upcoming NAR and ARELLO Conferences report back to the Commission on the status of this issue.

It was recommended that staff respond to Goodwin, Procter & Hoar LLP's request.

#### **Sections 436B-6 and Section 92-15, Hawaii Revised Statutes**

A copy of Section 436B-6 and 92-15, HRS, was distributed to the Commissioners for their information.

### **Hawaii Criminal Justice Data Center**

A copy of the webpage from the Hawaii Criminal Justice Data Center's Sex Offender Registration Information page was distributed to the Commissioners for their information.

### ARELLO, Other Organizations and Jurisdictions:

### **California Department of Real Estate – Criteria for Determining Rehabilitation**

A copy of the California Department of Real Estate's Criteria for Determining Rehabilitation (Applicant) was distributed to the Commissioners for their information.

The Deputy Attorney General stated that some of the criteria listed could be included in Chapter 99, Hawaii Administrative Rules.

Upon a motion by Commissioner Ohama, seconded by Commissioner Imanaka, it was voted on and unanimously carried to recommend that California's Criteria for Determining Rehabilitation be considered for inclusion in the next rulemaking amendments to Chapter 99, Hawaii Administrative Rules.

### **Idaho Real Estate Commission – Minimum Requirements for Questionable Applications**

A copy of Idaho's Minimum Requirements for Questionable Applications was distributed to the Commissioners for their information.

### **District of Columbia Real Estate Board – Website to Verify Licensure Status**

A copy of an article entitled, "Board's Website Shows Who's Who Among Licensees", was distributed to the Commissioners for their information.

When questioned about the status of PVL's computerized licensing database, the Commissioners were informed that it is hoped that the program is available on line sometime this year.

### **ALQ/Real Estate Intelligence Report – Warranty Against Pet Damage for Tenants**

A copy of an article entitled, "Site to sell warranty against pet damage," was distributed to the Commissioners for their information.

### Open Forum:

### **Hawaii Association of REALTORS**

Ms. Leong introduced Eric Abe, Legislative Specialist, to those present. Mr. Abe stated that he was glad to be present at the meeting and offered his assistance to the Commission should the need arise.

Ms. Leong was informed that the Commission will be submitting administration bills, which arose from the SWAT initiative involving condominium hotel operators and condominium managing agents. The bill would also propose to change the broker experience requirement to three out of five years.

Ms. Leong informed the Commissioners that the Hawaii Association of REALTORS has a subcommittee on electronic commerce. Ms. Helen Lindemann is the Subcommittee Chair.

### Budget and Finance Report – RERF:

Questions were raised as to whether or not the Commissioners are trustees of the funds. The Commissioners are the trustees of the Real Estate Recovery Fund, the Real Estate Education Fund and the Condominium Management Education Fund.

The Commissioners were informed that the funds are invested with Dean Witter and also in certificates of deposit. The past Commissioners were conservative investors.

Commissioner Rice stated that he thinks the Commissioners should, as trustees of the funds, understand the level of risk involved. He requested that staff provide an accurate reflection of the interest earned.

It was recommended that Commissioners P. Choi and Rice work with staff in amending the report to provide more information.

Upon a motion by Commissioner Rice, seconded by Commissioner P. Choi, it was voted and unanimously carried to accept the report of the Real Estate Recovery Fund, dated June 2000.

Next Meeting:

Wednesday, October 11, 2000  
9:00 a.m.  
Kapuaiwa Room  
HRH Princess Victoria Kamamalu Building  
1010 Richards Street, Second Floor  
Honolulu, Hawaii

The Chair reported that he will not be able to attend the October 11, 2000 Committee meeting and, as a result, Vice Chair Okawa will be presiding over the meeting.

Adjournment:

With no further business to discuss, the Chair adjourned the meeting at 9:50 a.m.

Reviewed and approved by:

/s/ Calvin Kimura  
Calvin Kimura

October 11, 2000  
Date

[ X ] Approved as is.

[ ] Approved with amendments. See minutes of \_\_\_\_\_ meeting.